

AN ORDINANCE **9 6 7 9 4**

AMENDING CITY ORDINANCE 90734 IN ORDER TO REVISE THE COMMODITY CHARGE METHODOLOGY FOR CHILLED WATER AND STEAM SERVICE IN THE DOWNTOWN AREA; AMENDING CHAPTER 34 OF THE CITY CODE TO INCORPORATE SUCH REVISIONS; AND AUTHORIZING THE IMPLEMENTATION OF SUCH REVISIONS TO THE COMMODITY CHARGE METHODOLOGY FOR THE DOWNTOWN AREA BEGINNING ON DECEMBER 1, 2002.

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WHEREAS, previous commodity charge methodologies have proven to be both inoperative and ineffective for the pass-through recovery of the water and energy costs necessary to produce chilled water and steam; and

WHEREAS, rate analysis has reflected the need to revise the commodity charge to pass-through the costs of higher utility bills resulting from the provision of chilled water and steam to customers in the downtown area; and

WHEREAS, the San Antonio Water System Board of Trustees (Board) has determined the need to revise the schedule of charges for the provision of chilled water and steam in the downtown area to reflect the change to the commodity charge methodology; and

WHEREAS, the City Council of the City of San Antonio is empowered to approve and adopt such changes to the commodity charge methodology; and

WHEREAS, it is in the best interest of the City to make such revision to the commodity charge methodology in order to continue to maintain its covenants and obligations established pursuant to City Ordinance No. 75686, adopted April 30, 1992; and

WHEREAS, these chilled water and steam rates for customers served in the downtown area were most recently amended by Ordinance No. 90734, which was passed and approved on October 21, 1999, however, due to an administrative error in the fuel and energy cost indexing methodology, the revision for the pass-through component was not implemented by SAWS; and

WHEREAS, that administrative error resulted in over billings to downtown customers of \$239,318 over the past three (3) years; and

WHEREAS, based upon a review of the particular facts and circumstances associated with this specific error, it has been determined that a refund is fair and just, including a rate of interest on those funds by SAWS, which totals approximately \$21,059; and

WHEREAS, the proposed action is projected to increase a downtown chilled water and steam service customer's rate an average of 2.5% above the adjusted rate billed by SAWS since 1999 and SAWS projects annual revenue under the proposed rates to total approximately \$6,400,000.00; and

WHEREAS, it is not anticipated that the proposed rate will have a significant impact on revenues paid to the City by SAWS, which is 2.7% of gross revenues; and

WHEREAS, pursuant to Board Resolution No. 02-282, the Board has recommended to the City Council to approve and adopt such revisions to the commodity charge methodology for the downtown area; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Council hereby adopts the revised commodity charge methodology for chilled water and steam in the downtown area. Such revisions attached hereto and incorporated herein as Attachment I, are on file with the Office of the City Clerk and the President/Chief Executive Officer of the San Antonio Water System. Such revisions shall further be incorporated into Chapter 34 of the City Code.

SECTION 2. The revised commodity charge methodology for chilled water and steam service in the downtown area adopted pursuant to this ordinance shall become effective at 12:01 a.m. on the 1st day of December, 2002, and shall be applied to all applicable San Antonio Water System billings upon completion of one complete monthly billing period, which will be on or about January 1, 2003.

SECTION 3. Upon the implementation of the rate schedule set out in Attachment I, the provisions of City Ordinance 90734 approved October 21, 1999 applicable to charges for chilled water and steam customers in the downtown area shall become null and void and of no force and effect said former charges being here repealed, and superceded by the revisions set out in Attachment I.

SECTION 4. A refund that represents the over billed amounts charged to the affected downtown chilled water and steamed service customers is hereby authorized and shall include interest earned on those over billings at the following rates:

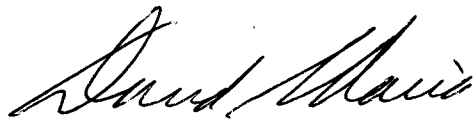
- 1) December of 1999 through December 2000 – Interest Rate of 6.3047%;
- 2) January of 2001 through December 2001 – Interest Rate of 4.607%; and
- 3) January of 2002 through July 2002 – Interest Rate of 2.154%.

This refund, including interest earned, is justified under the unique set of circumstances associated with the over billings and is not to be used as a waiver or precedent against the City or SAWS under any other circumstances.

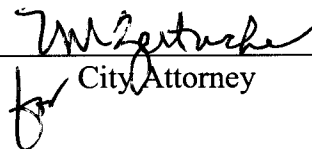
SECTION 5. Should any Article, Part, Paragraph, Sentence, Phrase, Clause, or Word of the Ordinance, for any reason, be held illegal, inoperative, or invalid, or if any exception to our limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 6. This ordinance shall be effective on the tenth (10th) day after passage.

PASSED AND APPROVED this 21st day of November, 2002.


M A Y O R PRO TEM
for EDWARD D. GARZA

ATTEST: 
CITY CLERK

APPROVED AS TO FORM: 
for City Attorney